

DEC 05 2006

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Docket No. SUN-DA-138T
Serial No. 10/757,821Remarks

Claims 1-3 are pending in the subject application. By this Amendment, claim 1 has been amended to clarify that unequally spaced active regions refer to the distances between the active regions. Support is found, for example, at Figure 1. No new matter is added by this amendment. Upon entry of this amendment, claims 1-3 will be before the Examiner. This amendment to the claims has been made in an effort to lend greater clarity to the claimed subject matter and to expedite prosecution. It should not be taken to indicate Applicant's agreement with, or acquiescence to, the rejections of record. Favorable consideration of the claims now presented, in view of the remarks and amendments set forth herein, is earnestly solicited.

Claims 1-3 are rejected under 35 U.S.C. §103(a) as being unpatentable over Nandakumar *et al.* (U.S. Patent No. 6,204,073) in view of Frenette *et al.* (U.S. Patent No. 5,770,490). Applicant respectfully traverses. The Office Action at page 2 states that Nandakumar teaches a method "wherein the first pattern includes a plurality of nonequally spaced active regions 11 on the substrate (which are not equally spaced because the top of the active region is shorter than the bottom of the active region." However, Nandakumar does not teach wherein the first pattern includes a plurality of active regions on the substrate, wherein distances between the plurality of active regions are unequally spaced as specified in amended claim 1. In particular, "unequally spaced" in claim 1 refers to the distance between adjacent active regions and **not** that an active region may be bordered by a trench having its sides taper at an angle (*see* Nandakumar at Fig. 2). Therefore, Nandakumar *et al.* does not teach or suggest a first pattern including a plurality of active regions on the substrate wherein the distances between each of the plurality of active regions are unequally spaced. Frenette *et al.* does not cure this defect.

Furthermore, Frenette *et al.* teaches a dual work function CMOS device and **not** a pattern for monitoring a shallow trench isolation profile. (*See* Frenette at col. 2, lines 8-19). Therefore, Frenette does not teach or suggest forming a second pattern on the substrate to measure electrical effects associated with a depth and a profile of a second shallow trench isolation as specified in subject claim 1.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the §103(a) rejection of claims 1-3.

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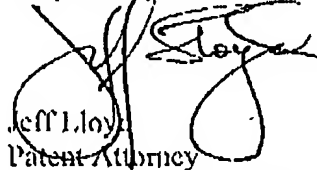
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In view of the foregoing remarks and amendment to the claims, Applicant believes that the claims as currently pending are in condition for allowance, and such action is respectfully requested.

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§ 1.16 or 1.17 as required by this paper to Deposit Account 19-0065.

Applicant invites the Examiner to call the undersigned if clarification is needed on any of this response, or if the Examiner believes a telephonic interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,



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